



REPUBLIC OF KENYA



**KENYA LAW**

THE NATIONAL COUNCIL FOR LAW REPORTING

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**In re DMT (Miscellaneous Application E003 of 2023)  
[2023] KEHC 23635 (KLR) (17 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23635 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
MISCELLANEOUS APPLICATION E003 OF 2023  
GMA DULU, J  
OCTOBER 17, 2023  
IN THE MATTER OF A PERSON WITH DISABILITY  
AND  
IN THE MATTER OF THE MENTAL HEALTH ACT CAP 248 LAWS OF KENYA  
IN THE MATTER OF APPLICATION FOR ORDERS OF GUARDIANSHIP OF DMT  
  
IN THE MATTER OF  
MWM ..... PETITIONER**

**RULING**

1. Before me is an application brought by way of Notice of Motion dated September 4, 2023 brought by Margret Wanjiru Mungai under Section 2 and 20 of the *Persons with Disabilities Act* No 14 of 2003 and Article 22, 28 and 43 of the *Constitution* of Kenya.
2. The prayers in the application are as follows:-
  1. (Spent).
  2. That DMT be and is hereby declared a person with disability as defined under the Persons with Disability Act.
  3. That the petitioner/applicant herein be appointed the legal guardian of DMT.
  4. That the income and all money at the disposal of the said DMT including the monthly pension payable to DMT and others held a the NSSF be released to the petitioner and she be given full access for the purposes of the maintenance and medication of the said DMT.
  5. That the costs of this petition be borne by the estate of the said DMT.



6. Such further orders do issue necessary to preserve the interests and well being of the said DMT.
3. The application has grounds on the face of the Notice of Motion that the petitioner is the legal wife of DMT that DMT is aged and has dementia and persistent loss of memory, that DMT is a retired civil servant and not capable of managing his own affairs or financial affairs.
4. The application was filed with a supporting affidavit sworn on September 4, 2022 by Margaret Wanjiru Mungai the petitioner/applicant amplifying the grounds of the application. Several documents including photocopies of national identity cards of DMT, the applicant and their adult children were filed.
5. On September 25, 2023 the children of the petitioner/applicant and DMT, and the applicant herself appeared in court, and confirmed that they were all agreed to the issuance of the orders sought herein.
6. On my part, having perused and considered the documents filed and the grounds and reasons given in support of the application, as well as the consent of the members of the family and noting that the full names of DMT are Daniel Mungai Thuo, I allow the application and order as follows:-
  1. DMT be and is hereby declared a person with disability as defines under the Persons with Disability Act.
  2. The petitioner/applicant herein be and is hereby appointed a legal guardian of DMT.
  3. The income and all the money at the disposal of the said DMT including the monthly pension payable to DMT and others held at the NSSF be released to the petitioner/applicant and she be and is hereby given full access for the purposes of the maintenance and medication of DMT.
  4. The costs of this application will be borne by the estate of the said DMT.

**DATED, SIGNED AND DELIVERED THIS 17<sup>TH</sup> DAY OF OCTOBER 2023 AT VOI.**

**GEORGE DULU**

**JUDGE**

**In the presence of:-**

Alfred – Court Assistant

Mr. Mutinda holding brief for Mr. Mwinzi for applicant

